IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7752 OF 2004

Shri Balasaheb Bhikaji Shinde .. Petitioner

Versus

The President/Secretary,
Adivasi Shiksan Sanstha,
Junnar, Dist. Pune & Ors. .. Respondents

Ms.Kumud Bhatia for petitioner
Mr.V.P.Malvankar, A.G.P. for respondent Nos. 3 to 6.

CORAM : A.P.SHAH AND
S.C.DHARMADHIKARI, JJ.
DATE : 15TH OCTOBER 2004.

P.C.

1. By this petition under Article 226 of the Constitution of India, petitioner prays that respondent Nos. 1 and 2 be ordered and directed

to allow him to resume duty on his original post of Supervisor in respondent No.2, school and to pay him arrears of salary and allowances from 29th November 1999 till 31st July 2004. It is prayed that salary and allowances be directed to be released regularly.

2. The facts are few and simple. It appears that petitioner was appointed as an Assistant Teacher on 14th July 1974. It is his case that having continuously worked for a period of 28 years he came to be promoted as Supervisor and was discharging duties as such at respondent No.2 school. There is no adverse remark communicated and petitioner has been working sincerely and diligently. In November 1999, petitioner was served with a suspension order. It was followed by a show cause notice dated 28th December 1999 to which petitioner replied on 18th February 2000. It is alleged that petitioner misbehaved with a male student and further that he has not deposited the amount of fine/ funds collected from the students with respondent No.1 Management. Petitioner has also been charged with negligent conduct in not accompanying the

students back from picnic spot.

3. After suspension, petitioner made an application for two months medical leave accompanied by Doctors certificate on 1st February 2000.

4. Grievance of the petitioner is that after suspension, he has not been paid subsistance allowance. Petitioner pointed out that in respect of the alleged misbehaviour an F.I.R. has been filed by father of the said student alleging offences under section 377 and 511 of I.P.C. The proceedings were pending before Judicial Magistrate, First Class, Khed. He submits that criminal case has been decided and he has been acquitted. It is his grievance that he has been suspended on account of pendency of criminal case and upon its conclusion, he should have been taken back or else arrears of salary be paid over to him. He made several representations. He submits that respondent No.1 was also approached by him. Since, respondent Nos. 1 and 2 did not take any cognisance of the matter, petitioner had approached respondent

No.3. He submits that respondent No.3 vide order dated 8th August 2001 directed respondent No.1 management to permit the petitioner to resume duty at respondent No.2 school and release his salary and allowances for the period of suspension. However, even this direction has not been complied with according to the petitioner. He has made several representations in this behalf.

5. It appears that the management has taken a decision to hold disciplinary proceedings. Petitioner's grievance is that disciplinary proceedings were held ex parte without any opportunity being given to him in accordance with rules. Hence, he requested respondent No.3 to give directions to respondent No.1 to conduct fresh enquiry. Even this grievance has not been redressed. In these circumstances, petitioner prays that he should be allowed to resume duty or else departmental proceedings be conducted expeditiously. He further seeks a direction for releasing his salaries and allowances.

6. An affidavit has been filed by the Deputy

Education Officer, Secondary, Pune, Z.P. After referring to the charges against the petitioner, it is pointed out that the payment of arrears is the responsibility of the Management.

7. After hearing parties, in our view, the only direction that can be issued in the above mentioned facts and circumstances is to conclude the enquiry initiated against the petitioner as expeditiously as possible. Accordingly, respondent Nos. 1 and 2 are directed to conclude departmental proceedings as expeditiously as possible and in any event within a period of six months from today. Needless to state that the petitioner will be entitled to subsistance allowance as per Rules and respondent Nos. 1 and 2 are obliged to release the same in his favour. We direct the Management to release the same, if not already paid, within eight weeks from today. We are not inclined to go into the merits of the charges as the petitioner himself prays for a fresh opportunity to meet the charges. Therefore, all contentions on merits of the charges are expressly kept open to be decided in the departmental/ disciplinary enquiry.

8. Petition disposed of accordingly with no orders as to costs.

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